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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,418	01/14/2004	Masahiko Fujita	021547A	2984
38834	7590	05/09/2006	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			LEE, GUIYOUNG	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/756,418

Applicant(s)

FUJITA, MASAHIKO

Examiner

Guiyoung Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 0206.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/27/2006 has been entered.
2. Claims 1-17 are pending.
3. The provisional obviousness-type double patenting rejection is withdrawn in view of the timely filed terminal disclaimer.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 8, 12-14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladyjensky (US 5,370,828) in view of Nomiyama (US 6,776,495 B2).

Re claims 1, 8, and 17: Ladyjensky discloses a chemiluminescent device comprising plural number of chemiluminescent devices (1 and 6 in Fig. 3), a flexible container (1 in Fig. 1), an approximately cylindrical synthetic-resin ampoule (2) contained in said flexible container, said ampoule having a surface formed with one or more grooves (5) extending along the circumferential direction thereof; and two kinds of liquids (3 and 4) capable of generating

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chemiluminescence when they are mixed together, one of said liquids being enclosed in said ampoule, the other liquid being enclosed in said container on the outside of said ampoule.

Ladyjensky does not teach the cylindrical synthetic-resin ampoule is movably contained in the flexible container. However, Nomiya suggests that the ampoule (2 in Fig. 1) can be movably contained in the flexible container (5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ladyjensky's ampoule to be movably contained in the container as taught by Nomiya because of Nomiya's suggestion above.

Re claims 2-4 and 12-13: Ladyjensky discloses that the groove is broken-line-shaped groove (See 5 in Fig. 1). Further, Ladyjensky discloses that the groove having V-shaped section is spirally formed on the surface of the ampoule, wherein said chemiluminescent devices being integrally combined with each other (the chemiluminescent devices 1 and 6 are combined in Fig. 3).

Re claims 5 and 14: Ladyjensky discloses materials of the PET for the ampoule (col. 3, lines 3-17).

6. Claims 6-7 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladyjensky and Nomiya as applied to claims 1 and 2 above, and further in view of Noel (USPT 6,021,595).

Re claims 6-7: Ladyjensky does not disclose a hole or hook of the container. However, Noel teaches a hole (10 in Fig. 1) and a hole (6) provided at one end of the container. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ Noel's hook or hole into Ladyjensky's chemiluminescent device in order to secure the chemiluminescent device to the fishing line easily and quickly.

7. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ladyjensky in view of Blersch (US 6,903,262 B2).

Re claims 9-11: Ladyjensky's teachings have been discussed above. Ladyjensky does not specifically disclose the plurality of pinhole-shaped apertures for the breaking line. However, Ladyjensky teaches the breaking line could be a "serration" and the term "serration" will refer to a cut, incision, notch, cleft, score, groove, fluting, rifling, etc, with or without removal of material (col. 2, lines 35-39). In addition, Blersch discloses the plurality of pinholes for the breaking line (Fig. 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ladyjensky's V-shaped grooves into a plurality of pinhole-shaped apertures as taught by Blersch because of Ladyjensky's suggestion that the breaking line could be a "serration".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guiyoung Lee whose telephone number is 571-272-2374. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LGY



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